

## **EXHIBIT 29**

Shawn Abate April 18, 2008

Page 1

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 ANTHONY MANGANELLO,  
4 Plaintiff,

**COPY**

5 vs. NO. 07-CV-3644

6 THE CITY OF NEW YORK, ET AL.,  
7 Defendants.

8  
9  
10  
11  
12 DEPOSITION OF: SHAWN ABATE  
13 DATE: April 18, 2008  
14 TIME: 2:02 A.M.  
15 LOCATION: Offices of A. William Roberts,  
16 Jr., & Associates  
17 46-A State Street  
Charleston, SC

18 TAKEN BY: Counsel for the Plaintiff

19 REPORTED BY: SUSAN S. BEISSEL,  
20 Registered Professional Reporter

21 A. WILLIAM ROBERTS, JR., & ASSOCIATES

22 Fast, Accurate & Friendly

23 Charleston, SC Hilton Head, SC Myrtle Beach, SC  
(843) 722-8414 (843) 785-3263 (843) 839-3376

24 Columbia, SC Greenville, SC Charlotte, NC  
(803) 731-5224 (864) 234-7030 (704) 573-3919

A. William Roberts, Jr. & Associates 800-743-DEPO

JOSEPH:

Q. How long did you stay at the scene?

A. I don't recall.

Q. While you were at the scene, who was in charge?

A. Who was in charge?

Q. Correct.

A. I don't know if I understand that question.

Q. Was there one particular -- who was the highest ranking officer present at the crime scene where Mr. Acosta was shot?

A. Well, I was the initial detective.

Q. Okay. And what were your responsibilities as the initial detective?

A. I -- I started and I was in charge of running the investigation, because at that time it was a shooting only.

Q. And what were your responsibilities in terms of running the investigation?

A. Create the crime scene, do a canvass, talk to the first responding officers.

Q. While you were at the crime scene, was Anthony Manganiello a suspect for the shooting of Albert Acosta?

A. William Roberts, Jr. & Associates 800-743-DEPO

Page 20

1 MS. FROMMER: Objection. You can  
2 answer.

3 THE WITNESS: Not at the initial, no.

4 BY MR. JOSEPH:

5 Q. Okay. Did you do anything else at the  
6 crime scene that you have not told us about?

7 A. Not that I know of.

8 Q. Okay. Did you direct any other  
9 officers to bring Anthony Manganiello back to the  
10 43rd Precinct?

11 MS. FROMMER: Objection. You can  
12 answer.

13 THE WITNESS: I don't remember.

14 BY MR. JOSEPH:

15 Q. When you left the crime scene, was  
16 there any evidence which in any way tied Anthony  
17 Manganiello to Mr. Acosta's shooting?

18 MS. FROMMER: Objection. You can  
19 answer.

20 THE WITNESS: I don't remember.

21 BY MR. JOSEPH:

22 Q. Approximately how long did you spend  
23 at the crime scene?

24 A. I don't remember the time frame.

25 Q. Where did you go when you left the

A. William Roberts, Jr. & Associates 800-743-DEPO

Shawn Abate April 18, 2008

Page 24

1 Manganiello?

2 A. I was with Detective Agostini.

3 Q. At the point in time that you and  
4 Detective Agostini spoke with Mr. Manganiello, was  
5 he under arrest?

6 A. No, he wasn't.

7 Q. Was Anthony Manganiello arrested on  
8 February 12th, 2001?

9 A. I don't -- I don't believe so.

10 Q. What did you say to Anthony  
11 Manganiello and what did he say to you?

12 MS. FROMMER: Objection. You can  
13 answer.

14 THE WITNESS: I don't remember.

15 BY MR. JOSEPH:

16 Q. What did Detective Agostini say to  
17 Anthony Manganiello and what did Mr. Manganiello  
18 say to Detective Agostini?

19 MS. FROMMER: Objection. You can  
20 answer.

21 THE WITNESS: I don't remember.

22 BY MR. JOSEPH:

23 Q. Do you have any recollection of  
24 anything that Anthony Manganiello said to you on  
25 February 12th, 2001?

A. William Roberts, Jr. & Associates 800-743-DEPO

Shawn Abate April 18, 2008

Page 26

1 MS. FROMMER: Objection. You can  
2 answer.

3 THE WITNESS: His jacket -- his jacket  
4 was on a chair in -- outside of the interview room  
5 when I -- when I got there.

6 BY MR. JOSEPH:

7 Q. Okay. And how did you -- what  
8 happened to that jacket?

9 MS. FROMMER: Objection. You can  
10 answer.

11 THE WITNESS: I don't remember.

12 BY MR. JOSEPH:

13 Q. What, if anything, happened -- did you  
14 ever touch Mr. Manganiello's jacket?

15 MS. FROMMER: Objection.

16 THE WITNESS: I don't remember.

17 BY MR. JOSEPH:

18 Q. Now, was Mr. Manganiello's shirt  
19 removed from him while he was in the interview  
20 room?

21 A. His shirt?

22 Q. Correct.

23 A. I don't remember.

24 Q. Did you keep Mr. Manganiello's -- take  
25 possession of Mr. Manganiello's memo book?

A. William Roberts, Jr. & Associates 800-743-DEPO

Shawn Abate April 18, 2008

Page 27

1 A. I didn't.

2 Q. Did anyone else take possession of  
3 Mr. Manganiello's memo book in your presence?

4 MS. FROMMER: Objection.

5 THE WITNESS: I don't remember that.

6 BY MR. JOSEPH:

7 Q. Sir, let me direct your attention to  
8 what has been marked as Exhibit Number 1.

9 MS. FROMMER: Just one second, please.

10 THE COURT REPORTER: It has been  
11 handed to the witness.

12 BY MR. JOSEPH:

13 Q. Sir, do you recognize this document?

14 MS. FROMMER: For the record, was this  
15 produced by you during discovery? There's no  
16 Bates stamp on it. This is not something that was  
17 produced by me.

18 MR. JOSEPH: This is part of the crime  
19 record, I believe. It was produced during  
20 discovery.

21 MS. FROMMER: I still would have to  
22 double-check that.

23 BY MR. JOSEPH:

24 Q. Sir, do you recognize what's been  
marked as Exhibit 1?

A. William Roberts, Jr. & Associates 800-743-DEPO

Shawn Abate April 18, 2008

Page 50

1 Did you discuss the case against  
2 Anthony Manganiello with Lieutenant Scott while  
3 Mr. Manganiello was still in the interview room?

4 MS. FROMMER: Objection.

5 THE WITNESS: I don't remember.

6 BY MR. JOSEPH:

7 Q. Did the fact that a lawyer appeared  
8 raise your suspicion that Mr. Manganiello was  
9 somehow involved in the shooting of Mr. Acosta?

10 MS. FROMMER: Objection.

11 THE WITNESS: It concerned me.

12 BY MR. JOSEPH:

13 Q. And why is that?

14 A. Because an attorney showed up.

15 Q. Is there any significance to you that  
16 an attorney showed up?

17 MS. FROMMER: Objection. You can  
18 answer.

19 THE WITNESS: The significance that  
20 the attorney showed up?

21 BY MR. JOSEPH:

22 Q. Correct. Why was it significant to  
23 you or why did it concern you that an attorney  
24 showed up?

25 MS. FROMMER: Objection.

Shawn Abate April 18, 2008

Page 52

1 say anything about Anthony Manganiello being  
2 lawyered up?

3 MS. FROMMER: Objection.

4 THE WITNESS: I don't remember.

5 BY MR. JOSEPH:

6 Q. Did you say anything to either  
7 Lieutenant Scott or Detective Agostini that  
8 Anthony Manganiello had gotten lawyered up?

9 MS. FROMMER: Objection.

10 THE WITNESS: I don't remember.

11 BY MR. JOSEPH:

12 Q. When Anthony's lawyer appeared for  
13 Mr. Manganiello, what, if anything, did you do?

14 A. Sorry. Say that again, sir?

15 Q. What did you do next after the lawyer  
16 showed up?

17 A. I don't remember.

18 Q. Did you apply for a search warrant at  
19 any point on February 12th, 2001?

20 MS. FROMMER: Objection. In this  
21 case?

22 MR. JOSEPH: Correct.

23 MS. FROMMER: Objection.

24 THE WITNESS: On what date, sir?

25 BY MR. JOSEPH:

A. William Roberts, Jr. & Associates

Shawn Abate April 18, 2008

Page 53

1 Q. February 12th, 2001.

2 A. I believe I did.

3 Q. I'm sorry. The phone broke up. What  
4 was your answer?

5 A. You're asking, did I apply for it?

6 Q. Correct.

7 A. I don't remember if I applied for it.

8 Q. Okay. Let me ask you this. At the  
9 point in time when the lawyer showed up to speak  
10 with Anthony Manganiello, in your mind, was there  
11 probable cause to arrest Anthony Manganiello for  
12 the shooting of Albert Acosta?

13 MS. FROMMER: Objection. You can  
14 answer.

15 THE WITNESS: I -- I don't remember if  
16 there was probable cause at the time.

17 BY MR. JOSEPH:

18 Q. Can you tell me what facts, if any,  
19 were you aware of that on February 12th, 2001,  
20 which tied Anthony Manganiello to the shooting of  
21 Albert Acosta?

22 MS. FROMMER: Objection.

23 MR. JOSEPH: I'll rephrase it.

24 BY MR. JOSEPH:

25 Q. Were you aware of any facts or

Page 54

1 evidence that tied Anthony Manganiello to the  
2 shooting of Albert Acosta on February 12th, 2001?

3 MS. FROMMER: Objection. You can  
4 answer.

5 THE WITNESS: Can I answer that?

6 MS. FROMMER: Yes, you can.

7 THE WITNESS: I don't remember.

8 BY MR. JOSEPH:

9 Q. I'm going to direct your attention to  
10 Exhibit Number 11.

11 MS. FROMMER: Go ahead.

12 BY MR. JOSEPH:

13 Q. Do you recognize Exhibit 11?

14 A. Yes, I do.

15 Q. What is it?

16 A. It's a DD-5.

17 Q. Did you prepare this DD-5?

18 A. Yes, I did.

19 Q. And what, if anything, does this DD-5  
20 reference or document?

21 A. Just give me a minute and let me read  
22 it, please?

23 Q. Sure.

24 A. It states that I was present along  
25 with Detective Agostini, Sergeant McGovern,

A. William Roberts, Jr. & Associates 800-743-DEPO

Shawn Abate April 18, 2008

Page 58

1 THE WITNESS: I have nothing here that  
2 can, you know, recollect my memory to that.

3 BY MR. JOSEPH:

4 Q. Was a search warrant obtained for any  
5 other vehicle which Anthony Manganiello owned?

6 MS. FROMMER: Objection. You can  
7 answer.

8 THE WITNESS: I don't remember.

9 BY MR. JOSEPH:

10 Q. Were you present when another vehicle  
11 owned by Anthony Manganiello was stopped on  
12 February 12th, 2001?

13 MS. FROMMER: Objection.

14 THE WITNESS: Can I answer?

15 MS. FROMMER: Yes.

16 THE WITNESS: Okay. I -- I don't  
17 remember.

18 BY MR. JOSEPH:

19 Q. Did you provide any testimony in  
20 support of getting the search warrant for Anthony  
21 Manganiello's black Nissan Maxima on February  
22 12th, 2001?

23 A. When are you talking about, sir?

24 Q. On February 12th, 2001.

25 A. I don't remember.

A. William Roberts, Jr. & Associates 800-743-DEPO

Shawn Abate April 18, 2008

Page 66

1 Q. Did any officer of the 43rd Precinct  
2 go to the Mount Vernon Police Department on  
3 February 12th, 2001?

4 MS. FROMMER: Objection. You can  
5 answer.

6 THE WITNESS: I don't remember.

7 BY MR. JOSEPH:

8 Q. On February 12th, 2001, did you speak  
9 with an Assistant District Attorney regarding the  
10 shooting of Albert Acosta?

11 A. I don't remember.

12 Q. Did you at any point on February 12th,  
13 2001, discuss with an Assistant District Attorney  
14 about whether there was sufficient evidence to  
15 charge Anthony Manganiello with the shooting of  
16 Albert Acosta?

17 MS. FROMMER: Objection. You can  
18 answer.

19 THE WITNESS: I don't remember.

20 BY MR. JOSEPH:

21 Q. At any point on February 12th, 2001,  
22 was there any evidence or fact made known to you  
23 that in any way tied Anthony Manganiello to the  
24 shooting of Albert Acosta?

25 MS. FROMMER: Objection.

A. William Roberts, Jr. & Associates 800-743-DEPO

Shawn Abate April 18, 2008

Page 67

1 THE WITNESS: I don't remember.

2 BY MR. JOSEPH:

3 Q. At any point on February 12th, 2001,  
4 did you learn of any evidence that created  
5 probable cause to charge Anthony Manganiello with  
6 the shooting of Albert Acosta?

7 MS. FROMMER: Objection. You can  
8 answer.

9 THE WITNESS: I don't remember.

10 BY MR. JOSEPH:

11 Q. After February 12th, 2001, what was  
12 your next involvement with this case?

13 A. I apprehended Mr. Manganiello.

14 Q. Between the point in time of --  
15 between -- strike that.

16 Between February 12th, 2001, and the  
17 time that you apprehended Mr. Manganiello, did you  
18 take any other steps in investigating the shooting  
19 of Albert Acosta?

20 A. I'm sorry. Can you say that again,  
21 sir?

22 Q. Between February 12th, 2001, and the  
23 day which you arrested or apprehended Anthony  
24 Manganiello, did you do anything to investigate  
25 whether Anthony Manganiello was in any way

A. William Roberts, Jr. & Associates 800-743-DEPO

Shawn Abate April 18, 2008

Page 72

1 name prior to today?

2 A. No.

3 MS. FROMMER: Objection, other than  
4 it's -- he was in a conversation with counsel.

5 MR. JOSEPH: Correct.

6 MS. FROMMER: Okay.

7 THE WITNESS: No.

8 BY MR. JOSEPH:

9 Q. Sir, do you know a gentleman named  
10 Michael Booth?

11 A. I know the name.

12 Q. And how do you know his name?

13 A. Through the investigation.

14 Q. Did you ever personally meet with  
15 Mr. Booth?

16 A. I met -- I met him, yes, I did.

17 Q. When did you meet Mr. Booth?

18 A. I don't remember.

19 Q. What were the circumstances of your  
20 meeting Mr. Booth?

21 A. His name came up as part of the  
22 investigation and we met -- we met with him.

23 Q. When you say we, who's we?

24 A. Myself and Detective Agostini.

25 Q. Where did you meet with Mr. Booth?

A. William Roberts, Jr. & Associates 800-743-DEPO

Shawn Abate April 18, 2008

Page 73

1 A. I don't remember.

2 Q. Do you recall whether it was at the  
3 43rd Precinct or somewhere else?

4 A. I don't remember.

5 Q. Were you aware of any illegal activity  
6 in which Mr. Booth was engaged in?

7 MS. FROMMER: Objection.

8 THE WITNESS: I'm sorry, sir?

9 BY MR. JOSEPH:

10 Q. Did you become aware of any illegal  
11 activity in which Mr. Booth was engaged in?

12 A. No.

13 MS. FROMMER: Objection. You can  
14 answer.

15 THE WITNESS: No.

16 BY MR. JOSEPH:

17 Q. Answer.

18 A. No.

19 Q. Were you aware that Mr. Booth was  
20 involved in bookmaking or gambling?

21 MS. FROMMER: Objection.

22 THE WITNESS: I can answer that?

23 MS. FROMMER: You can.

24 THE WITNESS: I'm sorry?

MS. FROMMER: You can answer.

A. William Roberts, Jr. & Associates 800-743-DEPO

Shawn Abate April 18, 2008

Page 74

1 THE WITNESS: It was a rumor.

2 BY MR. JOSEPH:

3 Q. Rumor. Was Mr. Booth searched when --  
4 when he met with you and Mr. Agostini?

5 A. I don't remember.

6 Q. Did Mr. Agostini find gambling slips  
7 on Mr. Booth's person?

8 MS. FROMMER: Objection.

9 THE WITNESS: I don't remember.

10 BY MR. JOSEPH:

11 Q. Did -- did Mr. Agostini find a knife  
12 on Mr. Booth's person?

13 MS. FROMMER: Objection.

14 THE WITNESS: I don't remember.

15 BY MR. JOSEPH:

16 Q. Was Mr. Booth allowed to walk --  
17 strike that.

18 Was Mr. Booth not charged with  
19 criminal activity in exchange for providing a  
20 statement against Anthony Manganiello?

21 MS. FROMMER: Objection.

22 THE WITNESS: I don't remember that.

23 BY MR. JOSEPH:

24 Q. By the way, was Terrence Alston a  
25 member of The Bloods at the time you met with him?

A. William Roberts, Jr. & Associates 800-743-DEPO

Shawn Abate April 18, 2008

Page 51

1 THE WITNESS: Well, one, he didn't  
2 request the attorney.

3 BY MR. JOSEPH:

4 Q. Okay. Was there anything else?

5 A. No.

6 Q. Did you interview Mr. Manganiello as a  
7 suspect because an attorney showed up?

8 MS. FROMMER: Objection.

9 THE WITNESS: I'm sorry. I didn't  
10 hear the end of that question.

11 BY MR. JOSEPH:

12 Q. Did the fact that an attorney came to  
13 the precinct to speak with Anthony Manganiello  
14 make Mr. Manganiello a suspect in your eyes?

15 MS. FROMMER: Objection.

16 THE WITNESS: No.

17 BY MR. JOSEPH:

18 Q. Did you discuss the fact that an  
19 attorney had showed up with Detective Agostini?

20 A. Detective Agostini was there.

21 Q. Okay. But my question is, did you  
22 discuss the fact that an attorney had shown up  
23 with Mr. Agostini?

24 A. I don't remember.

25 Q. Did either Mr. Agostini or Mr. Scott

A. William Roberts, Jr. & Associates 800-743-DEPO